Section 16.020 **Payment rate.** The payment rate is calculated as follows:

A. Determine the payment limit. The combined per diem costs of day training and habilitation services, ICF/MR services, and the special needs rate exception payment for a client shall not exceed the medical assistance regional treatment center per diem for ICF/MR services. Legislative changes approved in July 1991 established this rate to be, for purposes of special needs rate calculations, the regional treatment center per diem rate in effect on July 1, 1990, indexed annually by the urban consumer price index (all items as forecasted by Data Resources, Inc.) for the next fiscal year over the current fiscal year.

The amount of funding available as a special needs rate exception differs between clients, depending on the cost of current medical assistance-funded ICF/MR and day training and habilitation services an individual client receives.

B. Calculate the allowable costs. For the purposes of this section, "allowable costs" include wages for direct care staff (including nursing staff) plus payroll-related costs and fringe benefit costs, consultant fees, staff training costs (trainer fees and wages paid to staff to attend), and certain equipment and supplies. Administrative costs and physical plant modifications are examples of costs that are not allowable for this purpose. Costs for services available from other resources are also excluded.

C. Compare allowable costs and limits outlined in item A to the facility's projected budget. The application for a rate exception includes client and provider eligibility information, a description of the allowable services intended to meet a short-term need for intensive services, and estimated costs for those services.

D. Approve the rate. The amount approved as a special needs rate exception is established based on the calculations outlined above in items A through C, as well as on the basis of reasonableness of costs (for example, typical wages for the industry), and the costs for similar services under this plan (for example, fee for assessment and program development by a consulting psychologist).

Section 16.030 **Payment for persons with special needs for crisis intervention services.** Community-based crisis services authorized by the Department, to a resident of an intermediate care facility for persons with mental retardation (ICF/MR) reimbursed under this section shall be paid by medical assistance in accordance with items A to F.

A. "Crisis services" means the specialized services listed in subitems (1) to (4) purchased under contract by the ICF/MR for a resident to prevent the resident from requiring placement in a more restrictive institutional setting such as an inpatient hospital or regional treatment center and to maintain the recipient in the present community setting. The crisis services provider:

(1) Assesses the recipient's behavior and environment to identify factors contributing to the crisis.

(2) Develops a resident-specific intervention plan in coordination with the service planning team and provides recommendations for revisions to the individual service plan if necessary to prevent or minimize the likelihood of future crisis situations. The intervention plan must include a transition plan to aid the resident in returning to the community-based ICF/MR if the resident is receiving residential crisis services.

(3) Consults with and provides training and ongoing technical assistance to the resident's service providers to aid in the implementation of the intervention plan and revisions to the individual service plan.

(4) Provides residential crisis services in an alternative, state-licensed setting approved by the Department when an ICF/MR is not able, as determined by the commissioner, to provide the intervention and protection of the resident and others living with the resident that is necessary to prevent the resident from requiring placement in a more restrictive institutional setting.

B. Payment for crisis services in item A shall be made only for services provided when the ICF/MR has executed a cooperative agreement with the crisis services provider to implement the intervention plan and revisions to the individual service plan as necessary to prevent or minimize the likelihood of future crisis situations, to maintain the resident in the present community setting, and to prevent the resident from requiring a more restrictive institutional setting.

C. Payment for residential crisis services is limited to 21 days, unless an additional period is authorized by the commissioner or part of an approved regional plan.

D. Payment to the ICF/MR shall be made for up to 18 therapeutic leave days during which the resident is receiving residential crisis services, if the ICF/MR is otherwise eligible to receive payment for a therapeutic leave day under Minnesota rules governing therapeutic leave.

E. Payment rates for crisis services are established consistent with county negotiated crisis intervention services.

F. Payment under this section will be terminated if the commissioner determines that the ICF/MR is not meeting the terms of the cooperative agreement under item B, subitem (1) or that the resident will not return to the ICF/MR.

SECTION 17.000 SPECIAL SITUATIONS.

Section 17.010 **Closure.** In order to facilitate an orderly transition of residents from community ICFs/MR to services provided under the home and community-based services waiver programs, the Department may contract with the provider to modify the methods and standards for ICF/MR reimbursement as follows:

A. Extend the interim and settle-up rate provisions to include facilities covered by this section.

B. Extend the length of the interim period. An extension is limited to 24 months, except in instances when the Department grants a variance for facilities that are licensed and certified to serve more than 99 persons. In no case will the Department approve an interim period which exceeds 36 months.

C. Waive the investment per bed limitations for the interim period and the settle-up rate.

D. Limit the amount of reimbursable expenses related to the acquisition of new capital assets.

E. Prohibit the acquisition of additional capital debt or refinancing of existing capital debt unless prior approval is obtained from the Department.

F. Establish an administrative operating cost limitation for the interim period and the settle-up rate.

G. Require the retention of financial and statistical records until the Department has audited the interim period and the settle-up rate.

H. Require that the interim period be audited by a certified or licensed public accounting firm.

I. Amend any other provision to which all parties to the contract agree. Supplement 1 to this Attachment contains the portions of a closure agreement which may be established under this provision.

Section 17.015 **Service reconfiguration project.** The Department may approve a project to reconfigure two existing facilities, totaling 60 licensed beds, located on the same campus. The project requires the relocation of up to six beds to a six-bed facility, while reconfiguring the two existing facilities into a 34-bed facility and a ten-bed facility.

A. Ten beds will be decertified as the facilities are reconfigured.

B. Two beds in the 34-bed facility will be reserved for respite care for individuals receiving home and community-based services under waiver programs.

C. Upon Department approval:

(1) the two existing facilities' aggregate investment-per-bed limits in effect before the reconfiguration is the investment-per-bed limit after the reconfiguration;

(2) the 34-bed and ten-bed facilities are eligible for a one-time rate adjustment to be negotiated with the Department taking into consideration estimated excess revenues available from the six-bed facility;

(3) the relocated six-bed facility will receive the payment rates established for the former 46-bed facility until each facility files a cost report for a period of five months or longer ending on December 31 following their opening and those reports are desk audited by the Department. The 34-bed and ten-bed facilities will file their regularly scheduled annual cost reports;

(4) all facilities are exempt from the spend-up and high cost limits in Section 7.015 for the rate year following the first cost report submitted under subitem (3); and

(5) the maintenance limit for the 34-bed facility will be established following the language in Section 17.040. The maintenance limit for the ten-bed facility will be adjusted by the same ratio used to adjust the 34-bed facility's maintenance limit.

Section 17.020 **Wage equity.**

Effective July 1, 1998, and ending September 30, 2000, the Department will make available the appropriate salary adjustment cost per diem calculated in items A to E to the total operating cost payment of each facility subject to payment under this attachment and the performance based contracting demonstration waiver project. The salary adjustment cost per diem must be determined as follows:

A. Computation and review guidelines. A state-operated community service, and any facility whose payment rates are governed by closure agreements, receivership agreements, or rate-setting procedures for newly constructed or newly established facilities or approved Class A to Class B conversions under Section 12.000, is not eligible for a salary adjustment otherwise granted under this section. For purposes of the salary adjustment per diem computation and review in this section, the term "salary adjustment cost" means the facility's allowable program operating cost category, employee training expenses, and the facility's allowable salaries, payroll taxes, and fringe benefits. The term does not include these same salary-related costs for either administrative or central office employees.

For the purposes of determining the amount of salary adjustment to be granted under this section, the Department must use the reporting year ending December 31, 1996, as the base year for the salary adjustment per diem computation.

B. Salary adjustment per diem computation. For the rate period beginning July 1, 1998, each facility shall receive a salary adjustment cost per diem equal to its salary adjustment costs multiplied by 3.0 per cent, divided by the facility's resident days.

C. Submittal of plan. A facility may apply for the salary adjustment per diem calculated under this item. The application must be made to the Department and contain a plan by which the facility will distribute the salary adjustment to employees of the facility. For facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative, after July 1, 1998, may constitute the plan for the salary distribution. The Department will review the plan to ensure that the salary adjustment per diem is used solely to increase the compensation of facility employees. To be eligible, a facility must submit its plan for the salary distribution by December 31, 1998. If a facility's plan for salary distribution is effective for its employees after July 1, 1998, the salary adjustment cost per diem is effective the same date as its plan.

D. Cost report. Additional costs incurred by facilities as a result of this salary adjustment are not allowable costs for purposes of the December 31, 1998, cost report.

E. Salary adjustment. In order to apply for a salary adjustment, a facility paid pursuant to the performance based contracting demonstration waiver project, must report the information referred to in item A in the application, in the manner specified by the Department.

Section 17.030 **Emergency relocations for ICF/MR residents.** In emergency situations, the Department may order the relocation of existing ICF/MR beds, transfer residents, and establish an interim payment rate under the rate-setting methodology for up to two years, as necessary to ensure the replacement of original services for the residents. The payment rate will be based on projected cost and is subject to settle-up. An emergency situation exists when it appears to the Department that the health, safety, or welfare of residents may be in jeopardy due to imminent or actual loss of use of the physical plant or damage to the physical plant making it temporarily or permanently uninhabitable. The subsequent rate for a facility providing services for the same residents following a temporary emergency situation must be based upon the costs incurred during the interim period if the residents are permanently placed in the same facility. If the residents need to be relocated for permanent placements, the temporary emergency location must close and the procedures for establishing rates for newly constructed or newly established facilities in Section 12.000 must be followed.

Section 17.040 **Crisis capacity demonstration project.** A demonstration project for a two year period for one facility to provide crisis intervention for up to four individuals was approved by the state legislature. Additional costs for the demonstration project were based on new staff required, less the current staff to be deleted. Additional costs for meal assistants were then determined for the project. A resident day divisor was computed based on estimated occupancy of the ICF/MR and the Crisis Center using the new license capacity. The additional costs were then divided by the estimated resident days (92%) to arrive at the per diem.

Effective for services rendered from April 1, 1996, to September 30, 1996, and for rate years beginning on or after October 1, 1996, the maintenance limitation in Section 7.010, item A, subitem (2), for this facility is calculated to reflect capacity as of October 1, 1992. The maintenance limit is the per diem limitation otherwise in effect adjusted by the ratio of licensed capacity days as of October 1, 1992, divided by resident days in the reporting year ending December 31, 1993.

17.045 **Rate adjustment for medically fragile individual.** Beginning July 1, 1996, the Department shall increase reimbursement rates for a facility located in Chisholm and licensed as an ICF/MR since 1972, to cover the cost to the facility for providing 24-hour licensed practical nurse care to a medically fragile individual admitted on March 8, 1996. The Department shall include in this higher rate a temporary adjustment to reimburse the facility for costs incurred between March 8, 1996 and June 30, 1996. This higher rate will be calculated using Medicare cost-based principles of reimbursement.

Once the resident is discharged, the Department will reduce the facility's payment rate by the amount of the cost of the 24-hour licensed practical nurse care.

Section 17.050 **Downsizing demonstration projects.** A demonstration project for one facility to downsize from 45 beds to 21 beds and a second facility to downsize from 15 beds to 11 beds. The projects must be approved by the commissioner, and must include criteria for determining how individuals are selected for alternative services and the use of a request-for-proposal process in the selection of vendors for alternative services. The projects must also include alternative services for residents who will be relocated, time lines for that relocation and decertification of beds, and adjustments of each facility's operating cost rate under Section 7.000 as necessary to implement the project.

Each facility's aggregate investment-per-bed limit in effect before downsizing must be the facility's investment-per-bed-limit after downsizing. Each facility's total revenues after downsizing must not increase as a result of the downsizing project. Each facility's total revenues before downsizing will be determined by multiplying the payment rate in effect the day before the downsizing is effective by the number of resident days for the reporting year preceding the downsizing project.

For purposes of this project, the average medical assistance rate for home- and community-based services must not exceed the rate made available under Minnesota law.

Section 17.060 **Assignment of mortgage payment.** If a facility requests the Department to assign its monthly mortgage payment to the Minnesota Housing Finance Agency or other government entity, the Department shall comply provided that a mutually acceptable written agreement between the parties governing the transactions is developed and signed by the parties.

Items 10 to 13 are subject to the Health Care Financing Administration approval of an amendment to Minnesota's State plan. The Department agrees to seek approval from the Health Care Financing Administration and make its best efforts to obtain such approval. If items are not approved by the Health Care Financing Administration, the parties agree to negotiate in good faith to compensate the Provider in a like manner, subject to Health Care Financing Administration approval.

10. The administrative cost limitations in Section 7.010 shall not apply on the interim and settle-up cost report payment rates. The administrative cost limitation on the interim and settle-up cost report for administrative costs including the allocated portion of payroll taxes and fringe benefits shall be ________ per day for each day covered by the interim/settle-up period, not to exceed a total of ________________. The amounts under this item will be established after 90 days of management experience by the managing agent from the effective date of this agreement and shall be incorporated into the computation of the interim payment rate which shall be retroactive to _______ .

11. The central office cost allocation requirements of Section 3.040 shall not apply to the interim and settle-up cost report payment rates for the managing agent's central office costs associated with managing the Facility, except that additional directly identified costs of the managing agent must be allocated to the Facility, and shall be non-allowable costs. The manager's fee established under paragraph 4 of the Management Agreement shall be an allowable administrative cost of the Facility subject to paragraph 10 above.

12. If the payment rate that would have been established effective ________________, under Attachment 4.19-D (ICF/MR), includes a payback which is the result of the application of those laws and rules, the Provider agrees to repay the Department that amount, as may be adjusted for resolved appeals, at the end of the closure period. Any other outstanding appeals shall be resolved in accordance applicable laws and rules.

13. During the period of closure, the Provider may rent portions of the physical plant to the general public for non-ICF/MR services, provided that the income earned from such rental is offset in total against the Facility's allowable property-related costs on the settle-up cost report. The operating and property cost allocation provisions of Attachment 4.19-D (ICF/MR) relating to assigning the cost of renting to non-ICF/MR services shall not apply for the portion of the closure period during which the renting of portions of the physical plant to the general public for non-ICF/MR services occurs.

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